

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SPRINT SPECTRUM L.P., SPRINTCOM,	:
INC. and SPRINT/UNITED	:
MANAGEMENT COMPANY	:
	:
Plaintiffs,	:
	:
-against-	:
	:
AT&T INC.,	:
	:
Defendant.	:
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Case No. 19 Civ. 1215

DECLARATION OF CRAIG B.
WHITNEY

I, CRAIG WHITNEY, an attorney at law admitted to practice before the courts of this state, declare as follows:

1. I am a partner of the firm Frankfurt Kurnit Klein & Selz, P.C., attorneys for plaintiffs Sprint Spectrum L.P., SprintCom, Inc., and Sprint/United Management Company (collectively, "Sprint"). I am a member in good standing of the Bar of the State of New York. I have personal knowledge of the following facts and submit this declaration in support of Sprint's Motion for a Temporary Restraining Order and Preliminary Injunction.

2. Attached hereto as **Exhibit A** is a true and correct copy of an AT&T commercial entitled "OK Tattoo Parlor," available online at <https://www.ispot.tv/ad/IZ6J/at-and-t-wireless-ok-tattoo-parlor> (as of Feb. 8, 2019).

3. Attached hereto as **Exhibit B** is a true and correct copy of an AT&T commercial entitled "OK Martial Arts," available online at <https://www.youtube.com/watch?v=V4Ceds8diZc> (as of Feb. 8, 2019).

4. Attached hereto as **Exhibit C** is a true and correct copy of an AT&T commercial entitled "OK Coach," available online at <https://www.youtube.com/watch?v=GjMx-b3uk6k> (as of Feb. 8, 2019).

5. Attached hereto as **Exhibit D** is a true and correct copy of a page of AT&T's website offering "5G Evolution" phones, available at <https://www.att.com/buy/phones/browse/5g-evolution> (as of Feb. 8, 2019).

6. Attached hereto as **Exhibit E** is a true and correct copy of an image from AT&T's twitter profile.

7. Attached hereto as **Exhibit F** is a true and correct copy of a page of AT&T's website entitled "5G and you," available at <https://www.att.com/5g/consumer> (as of Feb. 8, 2019).

8. Attached hereto as **Exhibit G** is a true and correct copy of a map showing AT&T's Domestic Wireless Data Coverage, available at <https://www.att.com/maps/wireless-coverage.html> (as of Feb. 8, 2019).

9. Attached hereto as **Exhibit H** is a true and correct copy of an April 19, 2018 Technology Blog post written by Andre Fuetsch, AT&T's Labs and Chief Technology Officer, entitled "Setting the Record Straight on 5G Evolution," available at https://about.att.com/innovationblog/5g_evolution_record (as of Feb. 8, 2019).

10. Attached hereto as **Exhibit I** is a true and correct copy of a January 7, 2019 article on TheVerge.com entitled "AT&T misleads consumers by updating phones with fake 5G icon," available at <https://www.theverge.com/2019/1/7/18172355/att-fake-5g-logo-rolling-out-samsung-lg> (as of Feb. 8, 2019).

11. Attached hereto as **Exhibit J** is a true and correct copy of a January 11, 2019 article on AdAge.com entitled "AT&T's 5G Stunt is Decried As 'Misleading & A Marketing Ploy,'" available at <https://adage.com/article/digital/5g-stunt-ces-misleading-a-marketing-ploy/316214/> (as of Feb. 8, 2019).

12. Attached hereto as **Exhibit K** is a true and correct copy of a January 7, 2019 article on ArsTechnica.com entitled "AT&T decides 4G is now '5G,' starts issuing icon-

changing software updates,” available at <https://arstechnica.com/gadgets/2019/01/att-decides-4g-is-now-5g-starts-issues-icon-changing-software-updates/> (as of Feb. 8, 2019).

13. Attached hereto as **Exhibit L** is a true and correct copy of a December 31, 2018 article published on NYT.com entitled “What Is 5G? Here’s What You Need to Know About the New Network,” available at <https://www.nytimes.com/2018/12/31/technology/personaltech/5g-what-you-need-to-know.html> (as of Feb. 8, 2019).

14. Attached as **Exhibit M** is a true and correct copy of a February 4, 2019 article published on TheVerge.com entitled “Apple just endorsed AT&T’s fake 5G E network,” available at <https://www.theverge.com/2019/2/4/18211044/apple-att-5g-e-network-icon-iphones-misleading-ios-software-update-beta> (as of Feb. 8, 2019).

15. Attached as **Exhibit N** is a true and correct copy of relevant portions of a Federal Communications Commission Fact Sheet entitled “Twentieth Mobile Wireless Competition Report,” dated September 7, 2017. The full report is available online at <file:///r2d2/UserData/kmaynard/Downloads/DOC-346595A1.pdf> (as of Feb. 8, 2019).

16. Attached as **Exhibit O** is a true and correct copy of an email exchange between Chris Grenz, of Sprint, and Ted Suzuki and Thomas Payne III of AT&T.

17. Additional versions of AT&T’s 5GE advertisements can be found here:
<https://www.ispot.tv/ad/IZTU/at-and-t-wireless-ok-sushi> (available as of Feb. 8, 2019);
<https://www.ispot.tv/ad/IZfM/at-and-t-wireless-ok-machanic> (available as of Feb. 8, 2019);
<https://www.ispot.tv/ad/IZ6C/at-and-t-wireless-ok-baby-sitter> (available as of Feb. 8, 2019);
<https://www.ispot.tv/ad/IZ6U/at-and-t-wireless-ok-surgeon> (available as of Feb. 8, 2019).

18. No previous request for the relief sought herein has been made to this Court or any other.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
February 8, 2019



CRAIG B. WHITNEY